

REMARKS

This response is being filed in reply to the Office Action dated June 13, 2008. In that Office Action, the Examiner rejected claims 1-11 on various grounds. Claims 1-3 and 8 have been amended, claim 11 has been cancelled, and claims 12-17 have been added. In view of the amendments to the claims and for at least the reasons stated below, the Applicants respectfully traverse these rejections and ask that the Examiner reconsider and allow the pending claims.

Claim Rejections**Claims 8 and 11 Rejected Under 35 USC §112, Second Paragraph –**

Claims 8 and 11 stand rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as their invention. According to the Examiner, claim 8 recites the limitation “collected data” without having proper antecedent basis, and claim 11 includes a preamble that is inconsistent or unclear, with respect to the body of the claim.

Claim 8 has been amended to correct a clerical error in the preamble -- namely, that the claim should stem from claim 7 instead of claim 6 -- and claim 11 has been cancelled without prejudice. Thus, these rejections are now moot.

Claim 11 Rejected Under 35 USC §101 –

Claim 11 stands rejected under 35 USC §101 for being directed to non-statutory subject matter. Even though the Applicants traverse this rejection, claim 11 has been cancelled without prejudice. Therefore, this rejection is moot as well.

Claims 1-9 and 11 Rejected Under 35 USC §102(b) –

Claims 1-9 and 11 stand rejected under 35 USC §102(b) as being anticipated by US Patent No. 6,615,186 (hereafter ‘Kolls’). As mentioned above, claim 11 has been cancelled without prejudice. For at least the following reasons, the Applicants respectfully disagree with this rejection and ask the Examiner to reconsider and allow the pending claims.

First, the Kolls patent does not constitute 35 USC §102(b) prior art to the present application. The Kolls patent was issued September 2, 2003 and the present application has a filing date of October 3, 2003; therefore, Kolls was not patented more than one year prior to the filing date of the present application. Notwithstanding, the Applicants have substantively addressed the rejection in the paragraphs below.

Second, the passage cited by the Examiner does not disclose a *logistical support mode*, as recited in amended claim 1. In the last Office Action, the Examiner pointed to column 3, lines 45-48 and column 4, lines 3-19 (hereafter the ‘first Kolls disclosure’) for support of a logistical support mode¹. However, review of this section does not show the claimed subject matter. Column 3, lines 45-48 pertains to the perceived drawbacks associated with prior art approaches for ordering parts from internet-based auto parts companies, actual auto parts stores and online databases; *it does not involve operating a telematics unit in a logistical support mode to assist in remote tracking of a telematics unit and/or a vehicle*, as recited in claim 1. Likewise, column 4, lines 3-19 does not disclose a logistical support mode, as taught and recited in claim 1. That passage simply states that in-vehicle device 200 can process vehicle telemetry and metric data, including GPS data, vehicle operational data, engine performance data, etc. There is nothing in this disclosure that mentions remote tracking of a telematics unit and/or a vehicle, as the data mentioned there could be used for a variety of purposes that have nothing to do with a logistical support mode.

¹ Office Action dated June 13, 2008; page 3

Third, the Kolls patent clearly fails to disclose *separate logistical support and customer service modes, where the logistical support mode is operated first and the customer service mode is operated second*, as recited in claim 1. In one particular example, the present application explains,

When a vehicle is prepared for customer delivery 218, usually at a dealership, the telematics unit logistical support program mode is disabled and the subscriber support program mode is enabled 220. The switch in modes may be an internal software flag or may be a physical downloading of the subscriber support mode software into the telematics unit. Now in the second mode, the telematics unit behaves in a subscriber support context and is ready to be provisioned for a specific subscriber. Alternatively, the telematics unit 102 may be configured to disable logistic support mode and enable subscriber support by activating a subscriber account associated with the vehicle.²

None of the passages pointed to in Kolls discloses this type of sequential operation, where a logistical support mode is operated first and a customer service mode is operated second. It should be appreciated that the preceding embodiment is only exemplary, and that logistical support and customer service modes could be used in a different embodiment and context than that described above.

With respect to dependent claim 2, Kolls clearly fails to teach the step of first operating the telematics unit in a logistical support mode that “*tracks shipment and delivery prior to sale of the vehicle to the customer.*” The Examiner again points to the first Kolls disclosure for support of this rejection³, however, neither of the cited passages disclose this feature. If the Examiner disagrees with this interpretation of Kolls, then the Applicants respectfully ask that he specifically identify those portions of column 3, lines 45-48 or column 4, lines 3-19 where it discloses operating a telematics unit in a logistical support mode that tracks shipment and delivery prior to the sale of a vehicle. The Applicants are unable to find any such teachings.

With respect to dependent claim 3, the Kolls reference does not describe a method where “*activating the customer account triggers change from operating the telematics*

² US Patent Application Publication No. 2005/0075892; page 3, paragraph [0035]

³ Office Action dated June 13, 2008; page 4

unit in the logistical support mode to the customer service mode.” There is nothing in the cited passage that mentions activating a customer account, let alone changing the operation of a telematics unit from one mode to another based on such activation. If the Examiner disagrees, the Applicants again respectfully ask that he specifically identify the content in column 42, lines 38-62 where these teachings allegedly exist, as the Applicants are unable to find them.

With respect to claim 5, Kolls does not teach maintaining a logistical support mode *while a vehicle is transported to and maintained at a point of sale location*. The present application explains that a logistical support mode may be used with a telematics unit following the vehicle’s departure from a manufacturing facility and while it is being transported to and maintained at a point of sale location, such as a vehicle dealership for example. The passages cited by the Examiner never mention or even suggest this feature.

With respect to claim 6, the Kolls patent does not disclose changing from a logistical support mode to a customer service mode *upon sale of a telematics unit equipped vehicle*. For reasons similar to those provided above, the passage cited by the Examiner is completely void of the claimed subject matter. Column 42, lines 14-23 do not mention changing modes, let alone changing modes based on a sale of a vehicle.

With respect to claim 9, the patent to Kolls fails to disclose, during a logistical mode, reporting a vehicle position *based on at least one of: a time event trigger, a location event trigger, or a vehicle event trigger*, as recited in claim 9. In its entirety, the passage cited and relied upon by the Examiner says,

In block 506, flagged conditions and GPS data requests can be data communicated between a specific in-vehicle device 200, a COM device 100, an Internet based server, or an Internet appliance. Processing then moves to block 508.

There is no mention of any trigger in this passage, let alone the particular context in which the triggers are used in claim 9.

For at least the reasons provided above, the Applicants respectfully traverse the rejections of claims 1-9 and 11. Citing the Federal Circuit, “a claim is anticipated *only if*

each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*”⁴ (Emphasis added.) The Kolls patent clearly fails to disclose, or even suggest for that matter, each and every element of the rejected claims.

It should be recognized that some of the amendments to claims 1-3 and 8 are stylistic and are for purposes of better clarifying the claimed subject matter. These non-substantive changes and are not for purposes of patentability.

Claim 10 Rejected Under 35 USC §103(a) –

Claim 10 stands rejected under 35 USC §103(a) as being unpatentable over Kolls in view of US Patent No. 5,742,668 (hereafter the ‘Pepe patent’). The Pepe patent fails to remedy the numerous deficiencies in Kolls, as described above in more detail. Therefore, the combination of Kolls and Pepe does not render the subject matter of claim 10 obvious for at least the reasons why Kolls does not anticipate claim 1.

New Claims

New independent claim 12 and dependent claims 13-17 have been added. These claims are patentable over the cited prior art for at least the reason that the cited prior art does disclose activating a telematics unit, executing a logistical support program, activating a subscriber account, and executing a customer service program, as recited in claim 12.

Conclusion

In view of the foregoing, Applicants respectfully submit that all claims are allowable over the prior art. Reconsideration is therefore requested. The Examiner is invited to telephone the undersigned if doing so would advance prosecution of this case.

⁴ Verdegaa Bros. v. Union Oil Co. of California, 814 F.2d 628, 631

The Commissioner is hereby authorized to charge Deposit Account No. 07-0960 for any required fees, or to credit that same deposit account with any overpayment associated with this communication.

Respectfully submitted,

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Date: September 15, 2008